

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Vernon Raehsler,

Complainant,

vs.

Wayne LaDuke,

Respondent.

NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION

AND

NOTICE OF AND ORDER FOR
EVIDENTIARY HEARING

**TO: Vernon Raehsler, 225 4th Street NE, P.O. Box 1055, Cass Lake, MN 56633;
and Wayne LaDuke, Cass Lake, MN 56663.**

On November 17, 2006, Vernon Raehsler filed a Complaint with the Office of Administrative Hearings alleging that Wayne LaDuke violated Minn. Stat. § 211B.11 (election day prohibitions). After reviewing the Complaint and attached exhibits, the undersigned Administrative Law Judge has determined that the Complaint sets forth prima facie violations of Minn. Stat. § 211B.11.

THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that this matter will be scheduled for a telephone prehearing conference and an evidentiary hearing to be held at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401, before three Administrative Law Judges. The evidentiary hearing must be held within 90 days of the date the complaint was filed, pursuant to Minn. Stat. § 211B.35. You will be notified of the date and time of the evidentiary hearing, and the three judges assigned to it, within approximately two weeks of the date of this Order. The evidentiary hearing will be conducted pursuant to Minnesota Statutes § 211B.35. Information about the evidentiary hearing procedures and copies of state statutes may be obtained online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

At the evidentiary hearing all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should bring with them all evidence bearing on the case with copies for the Administrative Law Judge and opposing party.

At the conclusion of the evidentiary hearing, the Administrative Law Judges will choose to: (1) dismiss the complaint, (2) issue a reprimand, (3) find a violation of 211B.06, and/or (4) impose a civil penalty of up to \$5,000. The panel may also refer the complaint to the appropriate county attorney for criminal prosecution. A party aggrieved by the decision of the panel is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401, or call 612/341-7610 (voice) or 612/341-7346 (TTY).

Dated: November 21, 2006

/s/ Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

MEMORANDUM

On November 7, 2006, the Respondent, Wayne LaDuke, was elected Mayor of the City of Cass Lake. The Complainant, Vernon Raehsler, was also a candidate for Mayor and lost to Mr. LaDuke by 33 votes.^[1] The Complaint alleges that Mr. LaDuke violated Minn. Stat. § 211B.11 by soliciting votes outside of the polling place. The Complaint also alleges that a green pickup truck bearing a "LaDuke for mayor" sign was parked near the polling place.

Minn. Stat. § 211B.11 governs election day prohibitions. Subdivision 1 of this section provides as follows:

Subdivision 1. Soliciting near polling places. A person may not display campaign material, post signs, ask, solicit, or in any manner try to induce or persuade a voter within a polling place or within 100 feet of the building in which a polling place is situated, on primary or election day to vote for or refrain from voting for a candidate or ballot question. A person may not provide political badges, political buttons, or other political insignia to be worn at or about the polling place on the day of a primary or election. A political badge, political button, or other political insignia may not be worn at or about the polling place on primary or election day. This section applies to areas established by the county auditor or municipal clerk for absentee voting as provided in chapter 203B. . . .

If the evidence at a hearing were to establish by a preponderance of the evidence that the Respondent solicited votes at or within 100 feet of the polling place, those facts would establish a violation of Minn. Stat. § 211B.11. The Administrative Law Judge therefore determines that the Complaint has alleged a prima facie violation of

Minn. Stat. § 211B.11 and that allegation will proceed to an evidentiary hearing before a panel of three Administrative Law Judges.

B.L.N.

^[1] Mr. LaDuke received 77 votes; Mr. Raehsler received 44 votes; Michiko Arima received 39 votes; and Jason Londgren received 20 votes.